

REMARKS

Claims 1-28 were pending in the application. Claims 1, 9, 14, 15, 17-19, and 23-28 have been amended. Claims 4, 11, 16, and 20-22 have been canceled. Claims 1-3, 5-10, 12-15, and 17-19, and 23-28 accordingly remain pending in the application.

Claim 1 has been amended to recite limitations similar to those previously recited in claim 4. Claims 9, 14, and 19 have been similarly amended.

Rejections Under 35 U.S.C. § 101

Claims 14-18 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. In particular, the Examiner argued that claims 14-18 recite software *per se*. Claim 14 has been amended to recite, in pertinent part, a system comprising “at least one processor; and at least one memory coupled to the at least one processor, wherein the at least one memory stores program instructions that are executable by the at least one processor.” Support for the amendment to claim 14 may be found in Applicant’s specification at least in paragraph [0036]. Claim 14 (as amended) and its dependent claims are believed to be limited to statutory subject matter. Accordingly, withdrawal of the rejections of claims 14-18 under § 101 is respectfully requested.

Rejections Under 35 U.S.C. § 103

Claims 1-19 and 23-28 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Teegan et al. (U.S. Patent No. 6,748,555, hereinafter “Teegan”) in view of Hundt, et al. (U.S. Patent Application Publication No. 2002/0152455, hereinafter “Hundt”). Claims 20-22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Teegan in view of Jin (U.S. Patent Application Publication No. 2003/0028680). Applicant respectfully traverses the rejection in light of the following remarks.

To establish a *prima facie* case of obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974), MPEP 2143.03. Applicant respectfully submits that the cited references, taken individually or in combination, do not teach or suggest all the limitations recited in the claims. In particular, Applicant respectfully submits that the cited references, taken individually or in combination, do not teach or suggest a method comprising “inserting a respective agent into each of the plurality of applications upon a launch of the application” and “using the agents to intercept the function calls to the standard programming functions made by the plurality of applications” in combination with the remaining limitations of claim 1.

In rejecting claim 4, which previously cited similar features in combination with claim 1, the Examiner relied upon Teegan (e.g., in steps 906 and 910 of Fig. 16 and col. 26, lines 39-51). In the cited passage, Teegan discloses that a proxy object and a monitored application are both instantiated. Teegan further discloses that a pointer to the proxy object is provided to a client computer, and a reference to the monitored application is provided to the proxy object. The proxy object intercepts a method call from the client computer, notifies a monitoring process, and forwards the method call to the monitored application. Teegan’s claim 13 describes this technique as interposing a proxy object between the monitored software object and a client program. In other words, Teegan’s proxy object is placed between the monitored object and the client program and is external to both the monitored object and the client program. Applicant can find no teaching or suggestion in Teegan or the other cited references for inserting a respective agent into each of the plurality of applications and using the agents to intercept the function calls to the standard programming functions.

Hundt discloses techniques for dynamic instrumentation of an application program. Upon invocation of a function in the program, a corresponding substitute function is created (see, e.g., Abstract). The substitute function includes instrumentation code which may be used to gather runtime characteristics of the program (see, e.g., paragraphs [0017] and [0018]). However, Hundt does not teach or suggest inserting a

respective agent into each of the plurality of applications. Furthermore, Hundt instruments a particular function only upon invocation of the function in a running application and thus does not teach or suggest instrumenting each of the plurality of applications upon a launch of the application.

For at least these reasons, Applicant respectfully submits that independent claims 1, 9, 14, 19, and 23 are patentably distinct from the cited references. The respective dependent claims are believed to be patentably distinct at least due to their dependence on the independent claims. Because the rejection has been shown to be unsupported for the independent claims, a further discussion of the dependent claims is not necessary at this time. Accordingly, Applicant respectfully requests withdrawal of the § 103(a) rejections.

CONCLUSION

In light of the foregoing amendments and remarks, Applicants submit that all pending claims are now in condition for allowance, and an early notice to that effect is earnestly solicited. If a phone interview would speed allowance of any pending claims, such is requested at the Examiner's convenience.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5760-20100/BNK.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'B. Noel Kivlin', with a long horizontal flourish extending to the right.

B. Noel Kivlin
Reg. No. 33,929
Attorney for Applicant(s)

MEYERTONS, HOOD, KIVLIN,
KOWERT & GOETZEL, P.C.
P. O. Box 398
Austin, Texas 78767
(512) 853-8800

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